

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

<b>NISSAN NORTH AMERICA, INC.,</b>	<b>)</b>	
	<b>)</b>	
<b>Plaintiff,</b>	<b>)</b>	
	<b>)</b>	
<b>v.</b>	<b>)</b>	
	<b>)</b>	
<b>CONTINENTAL AUTOMOTIVE</b>	<b>)</b>	<b>Case No. 3:19-cv-0396</b>
<b>SYSTEMS, INC. (successor to</b>	<b>)</b>	
<b>Continental Teves, Inc.);</b>	<b>)</b>	<b>Judge Aleta A. Trauger</b>
<b>CONTITECH NORTH AMERICA,</b>	<b>)</b>	
<b>INC.; and CONTINENTAL TIRE</b>	<b>)</b>	<b>JURY DEMAND</b>
<b>THE AMERICAS, LLC (successor to</b>	<b>)</b>	
<b>Continental Tire North America,</b>	<b>)</b>	
<b>Inc.),</b>	<b>)</b>	
	<b>)</b>	
<b>Defendants.</b>	<b>)</b>	

**MOTION TO WITHDRAW PLAINTIFF'S MOTION TO REMAND**

Plaintiff Nissan North America, Inc. (“Nissan”) respectfully moves the Court for permission to withdraw its pending Motion to Remand (Doc. 17). As grounds for this motion, Nissan states:

1. Nissan’s pending remand motion is not jurisdictional. The parties to this litigation are completely diverse, and Nissan’s pending motion to remand does not question the scope of this Court’s subject-matter jurisdiction. Instead, Nissan’s pending request for remand merely seeks to enforce a contractual forum-selection clause. Thus, Nissan’s remand request is predicated upon a discrete contractual right that can be voluntarily relinquished, rather than a jurisdictional question that must be addressed.

2. Nissan desires to withdraw its request for remand in order to avoid unnecessary delay in the adjudication of the merits of Nissan's claims. Unlike most decisions regarding remand, orders granting motions to remand based upon forum-selection clauses are appealable as a matter of right in the Sixth Circuit. *Regis Assocs. v. Rank Hotels (Mgmt.) Ltd.*, 894 F.2d 193, 194–95 (1990). As evidenced by Continental's recent decision to file a sur-reply, Continental appears resolutely intent on fighting Nissan's remand efforts to the fullest extent. Thus, any decision by this Court to remand these proceedings appears destined for appeal and resulting delay.

3. Justice will not be well served if the parties become mired in appellate litigation before the Sixth Circuit regarding forum selection clauses and rights of removal. Such litigation would be costly, time consuming, and would not facilitate the orderly adjudication of the merits of the underlying claims.

4. The manner in which Continental has opposed the motion to remand will, moreover, multiply the expense and complication of the appellate process. In resisting Nissan's remand request, Continental asks this Court to make gratuitous findings, based upon an incomplete record, regarding the application of the Master Purchase Agreement that is the central focus of this litigation. It would be manifestly unjust for this District Court, or the Court of Appeals, to make findings about the merits of Nissan's contract claims based upon an undeveloped record in a context in which zero discovery has occurred.

5. The undersigned counsel has conferred with counsel for Continental, and Continental does not oppose Nissan's request to withdraw its motion to remand.

For all of these reasons, Nissan respectfully requests that the Court terminate its Motion to Remand (Doc. 17) and reset the initial case management conference in this matter.

Respectfully submitted,

LEADER, BULSO & NOLAN, PLC

By: /s/ George Nolan

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#### CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2019, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to the following counsel of record:

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